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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/902,923	07/10/2001	Paul S. Enfield	P113836	9260

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HUGHES LAW FIRM, PLLC  
PACIFIC MERIDIAN PLAZA, SUITE 302  
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BELLINGHAM, WA 98226-5583

EXAMINER
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FISCHETTI, JOSEPH A

ART UNIT	PAPER NUMBER
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3627

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/21/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

09/902,923

Applicant(s)

ENFIELD

Examiner

Joseph A. Fischetti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 5-8 and 10-27 is/are pending in the application.
- 4a) Of the above claim(s) 5-8 and 10-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Election/Restrictions***

Claims 5-8,10-16 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 12/26/06.

***Claim Rejections - 35 USC § 103***

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 17-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ramey in view of Begum et al and PORTER- "The influence of brand recognition..". Ramey disclose a combination of a plurality of display signs 36-46 and a store facility, with the combination being particularly adapted to assist customers to locate products in the store facility and to obtain greater familiarity of an overall pattern of product location in the store facility, said combination comprising:

a) a store facility having a shopping area in which store products are made available to customers in the shopping area, said shopping area being arranged in a plurality of elongate aisles having first and second aisle end portions Ramey Fig. 4);

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b) a substantial portion of the store products located in the aisles being brand name products which comprise one or more of frozen food products, refrigerated food products, food products which are canned, bottled or packaged food products and drug store products ( Ramey Fig. 4 categories of molding window vs. door etc.) and where said store products are categorized as:

i) products in a plurality of primary location (perimeter areas 16-24) related product categories with the products in each primary location related product category being in a related primary location area of the shopping area;

ii) products in each primary location related product category which are in turn classified in a plurality of secondary location related product categories, with the products in each secondary location related product category being in a related secondary location area (in each area 16-24, specific types of molding are displayed e.g., base double cut vs. base triple cut);

iii) products in at least some of said secondary location related product categories being in subcategories of a related one of the secondary location related product categories (all molding strips are related to each other as wood products and hence answer this limitation);

iv) a substantial portion of the products in at least some of the primary location related product categories being brand name products with an overall brand name product appearance including the brand name and any packaging and/or graphic representations Fi3 3 shows a unique design of a "ranch casing" which given design could have its own trade dress recognition making it like a brand name in terms of it serving as a sole source origin of the product maker);

c) a substantial portion of products located in each of the aisles being location related to other products in that aisle as location related products in a manner that one location related product at a particular location in an aisle would indicate a probability of other products that are location related to said one location related product would be in that aisle and as a possibility in closer proximity to said one location related product;

d) a plurality of display signs, each of which is located in, or proximate to, a related aisle, or positioned so as to be associated with said related aisle in a manner that each display sign is visible so that a shopper observing the sign is able to associate the sign with its related aisle and the products within that aisle (see fig. 5 element 36);

g) the display signs being positioned at a substantial number of said aisles so that a customer in the shopping area would be able to observe the display signs and associate with each display sign and its related aisle the more numerous various location related products (see Fig 1 of Ramey);

But Ramey fails to disclose the remainder of elements in claim 17.

However, Begum et al. discloses using a display sign bearing a product name 109. Since it is known that orange juice such as displayed in Begum et al. will be located with other frozen juices, e.g. grape, pineapple, etc., it is obvious that the ACME orange juice in Begum et al. represents products which are representative of other usage related products grape, pineapple juices made by other brands, in its related secondary location related product category or categories or subcategory or subcategories in its related aisle. Since the brand ACME is only one sign among many juices, it is thus f) a representation in a display sign being at most a relatively small fraction of the number of usage related products in the aisle that is associated with that display sign, with a substantial portion of the brand name product representations on the display sign having a direct relationship to the brand name product which it shows and an indirect relationship as being location related to other products in that aisle ( e.g., other juices);

But there is no disclosure of selecting ACME orange juice as the sign display for the given product group based on its brand name recognition. But, PORTER, discloses brand names stored in the consumer "memory as associations"... "grouped in such a manner that it has meaning". "The cluster may be a life style cluster ...and a variety of products cluster" (see p 2/12) Furthermore PORTER discloses "if a retailer carries a

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relatively large number of recognizable brand names, ...one of the brands should possess strong brand recognition" (see p. 8/12) . It would be obvious to modify Ramey to replace the text sign 36 in Fig. 5 with a product identifying sign as disclosed in Begun et al. and to select the product so displayed as being a brand name such that it associates in the mind other related products as taught by PORTER. The motivation for this is found in the desire in Begun et al to enhance efficient traffic flow through the store and the motivation in PORTER to enhance the prestige of the retailer, together with Ramey's desire to likewise enhance the ease of finding a items through grouping. To group according to memory associations as taught by PORTER would be obvious because the thought process in shopping is associative.

Whether one or a plurality of such brand names is displayed on each sign is deemed a mere repetition of the same concept and thus the combination based the PORTER will cause each of said display signs having a plurality of brand name product representations of products which are representative of other usage related products in its related secondary location related product category or categories or subcategory or subcategories in its related aisle, with the brand name product representations that are on the display sign being representative of a greater number of other products in the aisle associated with that display sign, and which are not on the display sign and are generally associated by location with the brand name product representations that are on the display sign, said brand name product representations on that display sign having an overall brand name product appearance including the brand name and any

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packaging and/or graphic representations, and, with a substantial portion of the brand name product representations on said display sign comprising trademarks which are registered in the U.S. Patent and Trademark Office (noting brand name recognition being the a requirement to register a trademark to the primary register of the USPTO) ;

The result of this combination as taught by the mental product associations disclosed in PORTER would obviously be g) a customer is able to observe individual display signs and by observing a much smaller number of brand name product representations on each display sign to be able to obtain location information of not only the products which are the same as the brand name product representations on the display sign, but also of a substantially greater number of related products which are in that aisle and of which the displayed brand name product representations are representative, and also the customer is able to become more familiar with product locations in the aisles by means of the customer associating the display signs as a memory aid of aisle locations.

Claims 18,20,21. See Ramey Fig. 5 element C for directory which according to PORTER would need to include listing identifying names of products, with some of the identifying names also having a brand name product representation. Re claim 21 official notice is taken of the use of hand outs as a form of portable information guides and to use this known practice in combination with PORTER's band name teaching would be obvious to maintain the desired associations in the consumer's mind.

Claim 19. Official notice is taken of the use of direction signs indicating a direction to a store location or locations and providing identification of the store location or locations, e.g. men's room. To use this known practice in combination with PORTER's band name teaching would be obvious to maintain the desired associations in the consumer's mind.

Claim 22. See fig. 1 of Ramey signs 36-46 category signs at spaced locations along at least some of said aisles at said spaced locations along at least some of said aisles, to use more specific signs as one gets closer is obvious as taught by Ramey, window/door signs placed over window and doors.

Claims 23, 24 to place the signs near the products associated therewith is the basis fundamental premise of the concept at hand and hence is obvious.

Claims 25,26,27. See Ramey Fig. 1 item 49 in which text is used, and to use this in combination with PORTER's band name teaching would be obvious to maintain the desired associations in the consumer's mind.

The Declarations under 37 CFR 1.132 filed 9/15/06 is insufficient to overcome the rejection of claims 17-27 based upon as set forth above as set forth in the last Office

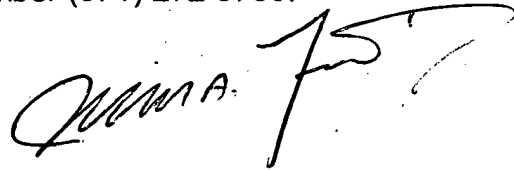


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action because: they support and do not diminish the disclosure of the prior art reference to PORTER.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication should be directed to PRIMARY EXAMINER Joseph A. Fischetti at telephone number (571) 272 6780.

A handwritten signature in black ink, appearing to read "Joseph A. Fischetti". The signature is stylized, with the first name "Joseph" written in a cursive script and the last name "Fischetti" written in a more blocky, capital-heavy style.